

NOV 16 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JASON DONNELL WILLIAMS,

Plaintiff - Appellant,

v.

VINSEN, Mule Creek State Prison,
Education Department,

Defendant - Appellee.

No. 04-16820

D.C. No. CV-03-02659-
WBS/KJM

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, Chief Judge, Presiding

Submitted November 8, 2005^{**}

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Jason Donnell Williams, a California state prisoner, appeals pro se from the district court's judgment dismissing, under 28 U.S.C. § 1915A, his 42 U.S.C.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1983 action alleging he was removed from his prison job in violation of his due process rights when his instructor, Mr. Vinsen, issued a Rules Violation Report without first giving him a written warning. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo a district court's dismissal for failure to state a claim under 28 U.S.C. § 1915A(b)(1), *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed Williams' due process claim because removing him from his prison job after repeated oral warnings to not fall asleep in his training class did not impose an "atypical and significant hardship on [him] in relation to the ordinary incidents of prison life." *Sandin v. Conner*, 515 U.S. 472, 484 (1995). Furthermore, the regulations provide that an inmate's failure to meet work expectations shall be reported on a Rules Violation Report, and do not require that a prior written warning be issued. *See* 15 Cal. Code Regs.

§§ 3312(a)(3), 3144 (a)(3)(G). Accordingly, the district court properly held that the language of the regulations did not give rise to a liberty interest in progressive discipline. *See Sandin*, 515 U.S. at 487.

AFFIRMED.